

**CITY OF TAKOMA PARK, MARYLAND
(MINUTED ADOPTED 2/28/05)**

**CLOSED SESSION, PUBLIC HEARING, PRESENTATION, SPECIAL SESSION &
WORKSESSION
OF THE CITY COUNCIL**

Tuesday, January 18, 2005

OFFICIALS PRESENT:

Mayor Porter

City Manager Matthews

Councilmember Barry

City Clerk / Treasurer Waters

Councilmember Seamens

Councilmember Williams

The Council convened at 6:07 p.m. and voted to hold a Closed Session to discuss three matters as noted on the agenda.

Mayor Porter identified each item.

Councilmember Seamens questioned whether the transportation of hazardous materials is a topic for open session.

Ms. Porter responded that she is not sure of the legal advice that the City Attorney plans to deliver. It is possible that the Council could later make that information public.

Mr. Seamens noted that the third item concerning the community center project came up after last week.

City Manager Matthews responded, explaining that her request to have this item on tonight's agenda was the result of a meeting that was held on Friday.

City Clerk Waters conducted a roll call vote to constitute a quorum of the Council.

The Council voted to convene in Closed Session (VOTING FOR: Porter, Barry, Seamens, Williams; ABSENT: Austin-Lane, Elrich, Mizeur).

Closed Session 1/18/05 - On January 18, 2005, the Council voted to convene in Closed Session 1) to consult with counsel to receive legal advice concerning proposed legislation relating to transportation of hazardous materials; 2) to consider matters relating to collective bargaining negotiations with Local 400 of the United Food & Commercial Workers International Union; and 3) to consult with counsel to receive legal advice concerning the Community Center Project (VOTING FOR: Porter, Barry, Seamens, Williams; ABSENT: Austin-Lane, Elrich, Mizeur). The Closed Session was held at 6:15 p.m. in the Municipal Building Administration Office area.

OFFICIALS PRESENT DURING THE CLOSED SESSION: Porter, Austin-Lane, Elrich, Mizeur, Seamens, Williams; ABSENT: Barry. (1) The Council received information about the upcoming collective bargaining negotiations with Local 400 of the United Food & Commercial Workers International Union (STAFF/OTHERS PRESENT: Matthews, Hobbs, Waters, Silber). (2) The Council received legal advice concerning the Community Center Project and related negotiations (STAFF/OTHERS PRESENT: Matthews, Waters, Silber, Bob Cox). (3) The Council received legal advice concerning proposed legislation relating to transportation of hazardous materials (STAFF/OTHERS PRESENT: Matthews, Waters, Silber). Items of discussion were pursuant to Annotated Code of Maryland, State Government Article, either Section 10-508(a)(7) or (9).

The Council reconvened at 7:48 p.m. in Open Session.

OFFICIALS PRESENT:

Mayor Porter	City Manager Matthews
Councilmember Austin-Lane	Deputy Manager Hobbs
Councilmember Barry	City Clerk / Treasurer Waters
Councilmember Elrich	Community & Government Liaison Ludlow
Councilmember Mizeur	City Attorney Silber
Councilmember Seamens	
Councilmember Williams	

COUNCIL COMMENTS

Mr. Seamens remarked that he asked for a Council discussion of the Open Meetings Act on January 4th. He stated that the Mayor denied the request. He said he has received a list of concerns about the Council's actions, and an e-mail regarding the absence of a review of the City Attorney's contract. He commented that he is dismayed to realize that we have not scheduled a review of the City Attorney's contract.

Ms. Porter expressed appreciation for the remarks. We will get to the items requested by Councilmembers, but have a number of priority items that must be scheduled in timely fashion. We will get to scheduling the item requested by Mr. Seamens.

Councilmember Austin-Lane remarked that she would like to get information about police enforcement at Holly/Philadelphia over a period of the last 6 months. She commented about the recent accident that took place at the site involving a young girl. It is dangerous even for motorists. The Council has pedestrian safety as a priority and should restate this priority, with direction that staff work with the State on this issue.

City Manager Matthews said that staff has a meeting scheduled with the State Highway Administration (SHA) later this month regarding issues related to the vicinity of the Middle School. Staff can raise this issue at the same time.

Ms. Austin-Lane asked for information about the status of the Metropolitan Branch Trail (MBT)

project.

Ms. Matthews responded that staff will respond within the week.

Councilmember Williams noted the March 1st deadline for project proposals to be submitted to SHA. He noted the segments of Carroll Avenue and the segment of New Hampshire Avenue, for which original project funding was cut. We want information back from staff about which things might fit under the available programs. There has been a public misperception about the potential use of Urban Area Security Funding (portrayed as District funds). We want to clarify the differentiation between the regional funds which go to benefit all jurisdictions in the area. This impacts all of us, not just residents of the District.

Councilmember Elrich remarked that on January 25th, M-NCPPC will be seeking input on the expansion of hospitals in residential zones. He explained the issue and urged people to attend the public forum.

Ms. Porter stated that the forum is being conducted due to suggestions from the City. She thanked staff and others for putting together a very successful Martin Luther King (MLK) celebration. On Thursday, there will be a meeting of the MML Chapter. There is a sub-committee that has been working on a study of tax duplications, which will be making recommendations.

PUBLIC COMMENTS

Rino Aldrighetti, Central Avenue related a personal experience with the Post Office which resulted in an investigation. Why bring this up? He came to this Council about 90 days ago to identify a neighborhood watch sign that is down in his neighborhood, with grass growing over it. People took notes of his comments. He drove by there today and the sign is still down.

Ms. Porter indicated that she will respond as soon as she hears from the Public Works Director that the sign has been replaced.

PRESENTATION

1. Community Center Construction.

Ms. Matthews said that with respect to the evaluation of more green principles, staff held a meeting with a number of people. They are looking at the skylight and talking to a firm in Colorado. They are also looking at HVAC, carpeting and lighting items. They are scheduled to meet again on January 24th. Staff hopes to have more cost information for the elevator and walkway by the next meeting. Staff met with representatives from Knott Construction last Friday. One item discussed is the schedule (completion by April 3). There is a concern about completion of the computer learning center. We got an agreement from the contractor that they will work for the next four Saturdays. It will involve them committing to premium pay for the

weekend employees. Staff will be briefing the Council on the cost of operations for the center by next week. There have been some discussions; we want to build on more information (presentation in February).

Ms. Porter commented that one of the items that came up at the public hearing was the matter of operating costs. Her recollection was that we have received some information about operating costs, most recently during the budget process.

Ms. Austin-Lane feels it was a missed opportunity that we did not put the earlier estimates out at the hearing.

Ms. Porter said that the Council did respond and that there are some estimates of costs that could be made public again.

Mr. Seamens remarked that City Manager Finn presented estimates in 2002 and again in 2004 (budget discussion) of the same numbers. These were later followed-up with some more detailed numbers by Recreation Director Haiduven. In the future, we need a more detailed cost break-out (e.g., maintenance, utilities).

Mr. Williams stated that there have been times when people have been interested in information that may or may not have been covered in the past. A lot of information has been covered. To the extent possible, we should create a central repository of documents on this topic.

Ms. Austin-Lane questioned whether this is possible in a short period of time.

Ms. Matthews remarked that this project has evolved over a lot of time. We can start to compile the information requested.

Mr. Williams urged that staff move forward with a compilation of information.

Councilmember Barry stated that the City could also post questions received and the answers to the same, on the web site.

Ms. Porter agreed. We are not sure that the mailer has been posted to the web site, but staff should add links to documentation, as it becomes available.

Ms. Matthews commented that we can make the information more prominent

Mr. Barry stated that Mr. Kohn's article was also very informative.

PUBLIC HEARING

2. Boston Avenue Permit Parking.

David Minton, Boston Avenue stated that he has lived on what has been more-or-less a one-way street for the past five years. Students from the college choose to park on the street. During the fair weather months he has to negotiate on-coming cars. During snow months, students park a foot or more from the curb to avoid the snow banks. He remarked about spaces set aside for persons using the park and commented on the community support for the request and that of the neighborhood association.

SPECIAL SESSION

3. 1st Reading Ordinance re: Expanding the Permit Parking Area on Boston Avenue.

Ms. Austin-Lane supported the proposal, adding that she is hopeful that the City will implement it before snowfall. She met with city staff and residents to view the site. Ms. Austin-Lane explained the efforts of the petitioners in the process and the association support that has been expressed. She further explained the process.

Moved by Austin-Lane; seconded by Elrich.

Ms. Waters agreed the process as described.

Ms. Porter stated that we have had similar issues with other streets in the vicinity of the college. She supported the request.

Ms. Austin-Lane added that the college officials are also supportive. They were experiencing difficulties with enforcement.

Ordinance #2005-1 was accepted unanimously (VOTING FOR: {Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams}).

ORDINANCE #2005-1 (ATTACHED)

4. 1st Reading Ordinance re: Local Government Infrastructure Program Bond for the Community Center.

Ms. Matthews explained the issue, noting the direction from the Council with respect to the bond. The three items identified by Council for more information are being explored; costs are not included in this proposal. The term would be for 20 years with a maximum interest rate not to exceed 4.7%. She noted the options for repayment of the bond. Staff will need direction during the upcoming budget process. Interest payments are semi-annual with annual principal payments. Interest rates are not locked-in until the bonds are sold. She commented on the first year of debt service (approximately \$202,000).

Ms. Austin-Lane recalled the last discussion about the confusion about a \$2.6M versus \$2.5M bond.

Ms. Matthews clarified that she had indicated that there would be issuance costs.

Councilmember Mizeur remembered the City Manager proposing a bond in the \$2.5M range, with the flexibility that she could come back with a specific number. She is not surprised that the number is not exactly \$2.5M.

Ms. Porter commented that when the Council talked about the \$2.5M figure, they may not have been thinking of the issuance costs.

Mr. Seamens asked whether given the Closed Session discussion, will this amount get us the occupancy permits and complete the work.

Ms. Matthews responded in the affirmative.

Mr. Seamens supported completion of the center. It is not the debate of anyone. We must move ahead. However, he maintains a concern that we do not have a comprehensive plan that we will be able to operate the center upon completion. We have not seen the costs. This type of plan is very Important to the determine of the source of money to pay for the debt service before making a final decision. We need to discuss the funding aspect.

Ms. Matthews said that with respect to operating costs, the extent to which the operations affect the bottom line is largely dependent on the Council direction (e.g., fees for activities).

Ms. Porter commented with respect to Mr. Seamens' second question--a very reasonable question. She would like to see us absorb the expense of the bond in the current tax rate. State legislature is again going to be arguing about slots. Health care costs are rising. Financing for the malpractice relief will also have an impact on health care costs. A number of things are still up in the air. She said that she cannot promise that we will keep the tax rate constant, but that she would like to be able to do that once we have more information about the bond aspects and budget.

Mr. Seamens stated that he has articulated his concerns. There are pressures outside of our budget. The County is talking about cutting our police rebate. Many of the cuts being made at the federal, state and county levels are putting additional hardships on residents. He suggested lobbying for a constant yield on the tax rate, noting his concern about people being priced out of this community.

Ms. Porter responded that we are not in a position to say that we will not increase tax revenues at all. We have certain employee contracts which involve increases in pay and benefits. There are certain upward pressures on the city's budget that we need to allow for. Personnel costs are the largest component of the overall budget. It is not realistic to promise residents that we will not

increase the budget.

Mr. Seamens clarified that he is not offering his statement as a promise. We just need to be aware of other elements affecting the budget when we consider this ordinance tonight.

Mr. Williams remarked that in the upcoming budget, we want to increase the percent of our supplemental to the homeowner tax credit program (from current 30% to 50%). That would cover the additional cost to residents for the impact of this bond.

There was a consensus on the Council.

Ms. Austin-Lane supported Mr. Williams' suggestion last week, but not as a way to pave a direction for a tax increase. She was glad to hear interest in keeping the tax rate constant.

Alain Thery, Erie Avenue commented that last November, there was an agreement that agenda items would be made available the Tuesday of the week prior to the Council meeting. The City Manager was asked for a recommendation about the funding source for the debt service. That information is not available. He noted the draft of the bond ordinance presented this evening. Is it broiler-plate language? Is it consistent with the other last minute information made available to the public and the Council regarding the community center. Mr. Finn did not provide adequate information. The Council does not have real information on the operations of the center. We need to look at the consequences of borrowing.

Tom Gagliardo noted that last week, the amount was discussed as \$2.3M to \$2.5M. The problem is that the amount is never firm. This is an absolute failure of leadership. This project started 6 years ago and no one knows the bottom line. The Council owes it to the people to provide full disclosure. They must tell the public now, before the Council makes a decision. He explained the Constant Yield Tax Rate (CYTR) concept. He questioned where is the repayment agreement. Will this bond amount pay for the remainder of the work?

Ms. Matthews said that this is common for the process to not include the repayment agreement until the ordinance is adopted. The debt service schedule would be similar to a mortgage repayment schedule.

Ms. Porter added that this would pay for completion of the current phase items, given what we know now.

Mr. Elrich commented that it takes into consideration what has been presented to us as the worst case scenario, to date. Our understanding is that since we are out of the ground and done with major systems, we have dealt with the largest items.

Ms. Porter stated that we have not re-bid the work to complete the existing space. We have made a high-end assumption about what that will be. We do not have numbers on the elevator, skylight or walkway.

Mr. Gagliardo urged for value, for what is spent. There has been a breakdown between leadership of the city and the residents. Residents do not believe any of the numbers presented. The City cannot keep doing this to the community. On the other hand, the Council has done a little better tonight. We have to draw the line somewhere.

Mr. Elrich remarked that this is why things like the elevator may not get into the project. He wants to get this over with,—without getting fleeced.

Ms. Porter stated that the Council is also frustrated.

Mr. Gagliardo encouraged that the Council provide numbers to the public. What is the total square footage of what is being developed and for what use?

Mr. Williams said that he will review his work of several months ago. He recalled a 10-11% increase in office space (other than Police), 11% increase for police space; and more than 100% for community space. Information is regularly posted on the web site.

Mr. Gagliardo asked what remains to be financed and what is the cost. He read from the draft ordinance. According to the language it would appear that the Mayor could exceed the \$2.6M in one paragraph. He will submit technical remarks.

Ms. Porter noted the intent.

Mr. Gagliardo stated that he remains concerned about last week's discussion versus this week's, with respect to the \$2.5M.

Ms. Porter responded.

Mr. Elrich said that Ms. Matthews broke-out the bond principal and the issuance costs (above and beyond the \$2.5M).

Rino Aldrighetti commented that the Council is in a tough position. It is unfortunate. There is a hole in the ground that has to be filled. It is important to talk to the public about the total bond amount. Being forthright with the public is important when credibility is strained. If the City is going to raise taxes, it should be clear about the impact to the individual. The Council is in a political box and is dealing with that now. They also have to fill the hole in a way that maintains the remaining credibility. Do it in a way that is visible. He remarked about city services and the history of maintaining modest services. It is often difficult to put out information in a way that is easily understood by residents.

Mr. Elrich said that he wants to address the notion of fees for activities. Recreation has always had a fee structure. We have carefully discussed a graduated fee structure to make sure that those who need the assistance are not paying a fee that precludes involvement. The early discussions of this building had an exciting vision. Years have evolved.

Mr. Aldrighetti responded that comments of the use fees were based on City Manager's remark.

Mr. Elrich stated that the Council could give direction to change policy.

Ms. Matthews remarked that the staff is going to present a number of models for the Council to consider as its policy.

Mr. Aldrighetti noted the pressures that will be put on the budget (will end up increasing either taxes/fees or reducing services).

Ms. Porter suggested that the City could partner with other organizations that are already providing services to provide the same, within our space, with their assistance.

Mr. Williams noted where to find his analysis of the square footage for the project on the city's web site. He noted the changes in the square footage.

Ms. Austin-Lane referred to information presented by Mr. Williams. As opposed to responding on the spot to a single question, the Council should refer residents' written comments to the City Clerk—have them submit their address and mail the information.

Mr. Gagliardo stated that the public hearing should not be less of an interactive process. The presentation at the hearing was not thorough.

Ms. Porter responded that there was a presentation at the beginning of the hearing which provided a detailed response. Answers to individual questions would have delayed comments.

Mr. Elrich said that we had the numbers and could have put them out to the public—should have thought more clearly about what went into the presentation.

Ms. Austin-Lane thanked those who have spoken tonight. It has been helpful in understanding the thoughts of the public. Last week she suggested that we have a mechanism for continued communications with the public. In undertaking a project this size it has meant that the Council and public wanted a shuffling of resources (e.g., utilities, maintenance and staff time). It makes sense that are undergoing a study of tax duplication. The Council needs to take a hard look at what can be transferred to the county. She noted having heard comments that there is not a public will for continued tax increases and burdening of the budget. We can take action. This project was ambitious and large-scale for a city our size. It was naive to believe in the early estimates for the project—one that the county would otherwise budget at a minimum of \$10M from the start. With the new City Manager and the weekly updates that are provided, we have restored some confidence in the project. We should start now with this small point of the \$2.5M as the limit on the borrowed amount. She recalled last week's discussion and proposed to modify the ordinance.

Ms. Austin-Lane moved to amend the bond amount from \$2.6M to \$2.5M.

Mr. Williams recalled the earlier question of the City Manager about whether the \$100,000 (issuance costs) reduction would lower the confidence in the borrowed amount covering the project.

Ms. Matthews restated that it would provide less flexibility in the City's budget and the bond total.

Mr. Seamens questioned the impact of a variable interest rate even with a maximum.

NOTE: Motion failed for lack of second.

Ms. Porter recognized the concern. However, we might best explain the addition to the \$2.5M as transaction fees. In talking to others over the holidays about building projects, we may have done things different from the start. The Council is frustrated. She said that she is comfortable now that the building is nearly finished. We have a new City Manager and a strong attorney on board. We are more comfortable than we were before. She recognized the public frustration. The gym was part of the original vision. But one of the original points raised had to do with lack of meeting space. That is one of the big needs that will be fulfilled in this part of the project. There was also interest in space for teens and senior activities. We would still like to see the gym. Sometimes we tend to focus on the things that have gone wrong and not necessarily on the things that have gone right. Let's go forward on a positive note.

Mr. Seamens said that he is in a dilemma over this. He agreed that management of this project has greatly changed with the new City Manager. Earlier in closed session, he heard things to indicate that we are getting back on track. In thinking about this bond, he sees no other alternative to the bond. On the other hand, we have to face neighbors who have trouble making ends meet and dealing with the current tax rate. He noted Mr. Williams' suggestion for further tax relief for people of low income, and the assurance that this bond will give us enough money to get the occupancy permits. History with change orders is that they vary widely. He would like to look at ways to cut-back on items in the plan.

Ms. Matthews suggested that the Council look at what is contemplated for the plaza level.

Mr. Elrich remarked that we can look at existing space and ask an architect to look at alternatives to the design. All does not need to be new.

Ordinance #2005-2 was accepted (VOTING FOR: Porter, Barry, Elrich, Williams; NAY: Seamens; ABSTAIN: Austin-Lane).

**ORDINANCE #2005-2
(ATTACHED)**

5. 1st Reading Ordinance re: Agreement for Financial and Accounting Consulting Services.

Ms. Matthews referred to the agenda item cover page and provided a brief history of the combination of the positions of City Clerk and Treasurer. She remarked about the agreement between former City Manager and Treasurer to assist with the services associated with the transition, and commented on discussions with Ms. Waters. Ms. Matthews brought the concerns expressed by Ms. Waters to the Council, along with others about this issue, and received support to recruit to fill a position of "Treasurer." She explained the item tonight which would allow an extension of the contract with Ms. McKenzie until the position is filled. She noted the projected expenses.

Mr. Barry questioned whether the short term contract would impact a more timely publication of the budget.

Ms. Matthews responded that she cannot say that her services will turn that situation around.

Ms. Austin-Lane asked if there is a timeframe for publication of the audited budget and a budget schedule for the upcoming fiscal year.

Ms. Matthews stated that she is working on the FY06 budget schedule. Department Heads are working on operating budgets. It is hard to provide a proposed budget without revenues which are not available until March. The FY05 Audit is hoped to be completed by February.

Ms. Porter commented on past presentations of preliminary revenues and expenditures.

Ms. Matthews noted the direction that has been given to department heads about how to proceed with preparation of operating budgets.

Mr. Seamens noted that expenditures for Ms. McKenzie exceeded legal limits.

Ms. Matthews agreed. The matter should have come back to the Council by the end of the calendar year.

Mr. Seamens remarked that Ms. McKenzie was Treasurer when former City Manager Habada illegally exceeded the law with contractual expenses. He expressed concern that Ms. McKenzie booked those expenses without bringing the matter to the attention of the Council, adding that he is not comfortable with her remaining on during this interim.

Ms. Matthews stated that she cannot speak to events of the past, but the current agreement was made between the former City Manager and Ms. McKenzie to assist with the transition following her retirement. She was acting in the capacity of a consultant and submitting bills in accordance with her agreement.

Councilmember Mizeur said that she is unfamiliar with the scenario presented by Mr. Seamens. Was there any action taken against this employee at that time?

Mr. Seamens commented that the Council took retroactive action to approve the expenditures, releasing Ms. Habada of any disciplinary action.

Moved by Elrich; seconded by Barry.

Alian Thery, Erie Avenue raised the issue about the MEDCO payment two years ago, finding fault with Ms. McKenzie's management of the Finance Department. She was responsible at that time. As a consultant, he is familiar with how to operate (i.e., if he goes over the approved hours, he does not get paid). He agreed with Mr. Seamens. Ms. McKenzie has no business being here with the City any longer.

Ms. Porter questioned whether there was a limit in the contract.

Ms. Matthews responded that the agreement did not have a dollar limit. It only had an hourly rate. That is a recognized concern in the structure of any contract in the future.

Mr. Thery remarked that she still should have known the limits.

Ms. Porter emphasized that he is blaming the wrong person. It is not fair to blame Ms. McKenzie in this instance.

Andy Keleman remarked about the importance of collecting time data on projects. The City could better assign costs to projects.

Tom Gagliardo asked about the scope of the proposed contract and the hourly rate.

Ms. Matthews responded that the prior agreement was for a rate of \$41/hour, along with mileage reimbursement. Until recently, she was staying with a local friend and did not require housing expenses. She has now requested a housing allowance.

Mr. Gagliardo questioned the scope of work.

Ms. Matthews identified the immediate accounting work and completion of the audit.

Mr. Gagliardo responded that \$41/hour is not a high rate. Who is responsible for the contract overrun?

Ms. Matthews commented that she thinks that the problem began under the former City Manager. Now, it is her responsibility to bring forth the issue, having recently been made aware of the billings.

Ordinance #2005-3 was accepted (NAY: Austin-Lane, Seamens; ABSTAIN: Mizeur).

ORDINANCE #2005-3

(ATTACHED)

BREAK - The Council took a scheduled break at 9:52 p.m. and later reconvened.

WORKSESSION

6. Municipal Electrical Aggregation.

Community & Government Liaison Ludlow introduced Martin Gottschalk who has been as participant in these discussions. We have been meeting to discuss approaches to lobbying initiatives at the State regarding Municipal Electrical Aggregation. First, we would want to get the legislation passed and then set up ways to evaluate its appropriateness for the city. This is one of the MML priorities. One of the aspects we looked at was the Council working with other municipalities to see that this happens. We have considered a joint letter committing to further work.

Ms. Porter thanked them for their work. It is an important issue for municipalities. This really has to be an action by municipalities working together. We will be more successful if we work with other municipalities, and it would be more impressive before the Legislature. Municipal aggregation has not really caught-on with the public because it comes across as “boring.” We need to present it as a savings in electrical bills. She suggested some type of public event that is aimed at explaining to the public why aggregation is in the best interest. We have an MML Chapter meeting this week which gives us an opportunity to talk to other localities. The Mayor of Rockville is very enthusiastic. She has not talked to the Mayor of Gaithersburg, but knows that the Mayor of Greenbelt is very supportive. She also believes that there are other municipalities in Prince Georges and Montgomery County that would be supportive and get involved.

Mr. Gottschalk said that he first got interested when the city discussed wind energy last year and the green energy task force was asked to look at other alternatives. He has done some research on aggregation and is excited about this.

Mr. Elrich reinforced the idea of working with other municipalities and MML. We should package this as to what we can do with energy aggregation, in general (beyond just the green options). He asked about the type of benefits that are being extended to large corporations and other entities.

Ms. Ludlow responded that this measure would keep the rate lower for the consumers.

Ms. Porter said that at the MML Legislative Dinner, Mayor Giammo had the audience chanting “opt-out good; opt-in bad.”

Mr. Seamens thanked Mr. Gottschalk and Ms. Ludlow for their work. He likes the draft letter presented tonight and the idea of going-in with other municipalities as an approach.

Ms. Ludlow said that she will be meeting with Candace Donohoe (MML) on Friday to discuss a type of joint strategy.

Ms. Porter remarked that there are people in some areas of the state who are not familiar with aggregation.

Mr. Williams suggested deletion of “wind-based or” in the second-to-last paragraph. There are some current issues with wind-based power. The City’s statement on this point should wait until there are outcomes.

Ms. Porter indicated that she will take a copy of the draft letter to the meeting on Thursday and ask for other input.

Ms. Mizeur questioned that with the opt-out option, is there a threshold that makes the program successful.

Mr. Gottschalk remarked about the difference between opt-in and opt-out legislation. The Public Service Commission will do a review to analyze the numbers of consumers who have already switched to determine the competition in the area.

Ms. Mizeur queried whether having more people to opt-out versus stay-in, would impact the City’s ability to continue the program.

Mr. Gottschalk responded that it would affect how the city negotiates its contractor with the provider.

Ms. Mizeur asked whether the City could partner with other municipalities.

Ms. Ludlow stated that the more municipalities involved would increase negotiating power.

Ms. Porter restated that she would be willing to talk with other people on Thursday.

Mr. Seamens said that this is important and that he would also be willing to talk to others.

Ms. Porter recommended that we delay a sign-off on the letter and make that a part of the “joint event.”

Ms. Mizeur questioned the level of county interest/involvement.

Ms. Porter stated that she does not believe that there has been any legislation proposed to give counties the authority.

Mr. Gottschalk explained the reasons for keeping it as local, as possible, being the best choice.

Ms. Mizeur asked whether the vision was to take this beyond the Montgomery County Chapter. She noted an example from Ohio. She is interested in this idea, but would not want to take it on, just the City.

Ms. Porter noted the three largest municipalities in the county.

Ms. Ludlow suggested that the effort also involve some of the Prince George's County municipalities.

Mr. Gottschalk noted that Delegate Hubbard and Senator Green are supporting the Bill.

Ms. Porter stated that we should work with all municipalities in favor of this legislation.

Ms. Ludlow commented that the letter of interest discusses a study of this issue.

Ms. Porter said that she would like for us to be open with other municipalities to receive their input.

Mr. Seamens said it would be helpful to say that there is a consensus on the part of the City Council.

CONSENSUS: All except Councilmember Austin-Lane (no interest).

7. Transportation of Hazardous Materials.

Ms. Porter asked for a sense from the Council on how we would like to proceed. We received legal advice from the City Attorney earlier this evening. She referred to the recommendations of the Nuclear Free Takoma Park Committee (NFZ). (1) Amendment to the NFZ Charter to clarify the authority to be consultative on the issue of nuclear waste transportation. (2) A public forum. (3) Consider legislation governing nuclear waste transportation—model ordinance. (4) Monitor initiatives in the District. (More detail in the agenda item materials)

Andy Keleman (PSCAC) remarked that the committee has talked about this topic, but does not think that the focus should be strictly on nuclear materials (i.e., include discussion of chlorine gas). He is very interested in the aggregation discussion. The PSCAC is very interested in partnering in a variety of efforts with area organizations and localities.

Ms. Porter recognized that the issue has come up in the Transportation Planning Board (COG), but that the discussion was largely focused on moving rail lines out of the District.

Mr. Keleman recalled the presentation to the Council by an outside consultant on this matter. There was some discussion about the fiscal impact.

Jay Levy said that it has been indicated that we will have waste coming through the city in the

next two years (due to the on-line of the Utah facility). This is a public health and safety issue. It is also an economic issue. Hazardous waste is also important.

Ms. Porter commented that the interests are the same on this issue. It would be helpful to see the NFZ Committee and the PSCAC work together.

Mr. Elrich supported the first steps, noting the impact of a lot of legal work. The laws for nuclear waste will be somewhat different from hazardous materials laws.

Mr. Keleman questioned whether the discussion includes more than just nuclear waste.

Mr. Seamens assured that it must. He remarked about legal costs. We need to properly educate the public about the issues. We should mobilize the public. He encouraged that interest groups look at alternative, creative ways to address the issue. However, we are at a point of low probability of success, in getting legislation to prohibit transport through the city.

Mr. Levy remarked that the committee feels that they have been tasked by the city to carry out a number of responsibilities. He asked for a mandate to do what they can do, with respect to nuclear waste. The focus should remain within the city.

Mr. Seamens acknowledged the point. He would recommend efforts beyond ordinances.

Mr. Keleman announced the PSCAC forum that is being held on Emergency Preparedness. The committee has a few more comments. If we move forward with any type of legislation, we should not just talk about “prohibiting” but also include emergency preparedness.

Ms. Porter recognized that we have heard some concerns about the third NFZ recommendation (i.e., cost aspect and probability), and would recommend the mission include monitoring, with consideration of other jurisdictions.

Ms. Mizeur asked if the public forum was envisioned as something the committee would host. Is this to be a fact finding effort?

Mr. Levy responded that it was more of a fact finding exercise to educate the public on things we may face in the future. The committee would be happy to sponsor the event.

Mr. Seamens stated that he thinks that the language should reflect the intent that the presenters at the forum provide expert testimony.

Ms. Austin-Lane commented on the District of Columbia hearings. It was instructive to hear what has been said at those meetings. She recommended that this be done in conjunction with the Council’s discussion and participation.

Ms. Porter explained why it may be best to have a forum outside of a regular council meeting.

Mr. Seamens agreed that we could do that and then have a later briefing to the council at a regular meeting.

Ms. Porter noted that Councilmembers could attend the forum. It could take 1.5 to 2 hours.

CONSENSUS: Move forward with items #1, 2 and 4.

Mr. Elrich remarked that it seems that the result of getting more information will help in our discussion about how to move forward.

CONSENSUS: Hold off on the decision about #3 until we have more information.

Ms. Austin-Lane said she would be happy to help with the public forum.

There was a discussion about advertising options to include a supporting article and notice of the forum.

Mr. Elrich suggested that the forum be scheduled in March.

Mr. Levy proposed that we also get the *Voice* to run an article.

EXECUTIVE FUNCTION SESSION

Ms. Porter announced that the Council will be holding an Executive Function Session next week at 6:30 p.m. to discuss how to prepare for the City Manager's evaluation. This is not something covered under the Open Meetings Act.

ADJOURN

The Council adjourned for the evening at 11:10 p.m.